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In re Application of
GOOD, Thomas J. et al.
Application No.: 10/088,330
PCT Application No.: PCT/US96/11300
International Filing Date: 03 July 1996
Priority Date: None
Attorney Docket No.: 10455-1PCT
For: MICROCOLUMN FOR EXTRACTION
OF ANALYTES FROM LIQUIDS

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 12 May 2003.

BACKGROUND

On 03 July 1996, applicant filed international application PCT/US96/11300. A demand for international preliminary examination was timely filed on 02 February 1998. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 04 January 1999 (03 January 1999 was a Sunday).

On 14 March 2002, applicant filed a Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b) accompanied by, *inter alia*, the basic national fee.

On 12 March 2003, the Office mailed Decision On Petition Under 37 CFR 1.137(b) dismissing applicant's petition without prejudice.

On 12 May 2003, applicant submitted the instant renewed petition.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response; (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

A terminal disclaimer is not required as application was filed on 21 June 1999. The petition fee and the basic national fee were previously paid.

Applicant now states that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional."

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Applicants submitted a declaration on 14 March 2002. The declaration does not comply with the requirements of 37 CFR 1.497(a)-(b) as it is not executed by both of the inventors. The declaration is executed by Thomas J. Good, but not by Alan F. Redmond.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including preparation of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.



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